IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 21424 of 1998

Between:

M/s Brooke Bond Lipton India Limited (Now know as Hindustan Lever Limited) Ghatkesar, R.R. District.

..... PETITIONER

AND

1 The Chairman, Industrial Tribunal-II Chandravihar, Rep. by P.O. Hyderabad.
2 K. Bikshapati, (Ex.DKT.No.1102) Ex.Grade III worker, Brooke Bond

Lipton India Limited, Ghatkesar, Rajaraopet, Jameelapet Post,

Nalgonda District, Bhongir.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of Writ of Certiorari by calling for the records of M.P.No.2/96 in I.D.10/93 on the file of Industrial Tribunal-II, Hyderabad passed on 8th July, 1998.

Counsel for the Petitioner: MS.G.SUDHA

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: MR.G.VIDYASAGAR

The Court made the following:

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ORDER:

This writ petition is filed to call for the records of M.P.No.2 of 1996 in I.D.10 of 1993 on the file of the Industrial Tribunal-II, Hyderabad, passed on 8th July, 1998 and to quash the same.

2. There is no necessity of going into details of this case. Admittedly, the Labour Court committed an error in assuming jurisdiction as available under Section-2 (A) (2) of the Industrial Disputes Act, 1947 (for brevity 'the I.D.Act) and decided the case. In fact, in a petition like this, under Section-33 (2) (b) of the I.D. Act, while examining as to granting an approval of the action taken by the Management, the Court is supposed to look into whether the Management has followed the basic principles while conducting enquiry into the matter and whether any prima-facie case was made out or not. In this case, admittedly, the Labour Court did not go into as to the making of a prima-facie case by the Management. Instead of that, the Labour Court exercised the powers under Section 11-A of the I.D. Act, and rejected the approval of the action taken by the Management in removing the workman from service.

3. The course open for the Labour Court was only to look into whether the prima-facie case was made out or not. In this case, instead of going into that, went into the irrelevant aspects of the matter and rejected the application filed by the Management.

4. I am of the considered opinion that it is not open for the Labour Court to go into the irrelevant aspects and the only aspect the Labour Court supposed to see is that whether the enquiry is properly held and whether there is any prima-facie case made out or not.

5. In that view of the matter, the impugned order is set aside and the matter is remitted back for fresh consideration. The Labour Court shall look into the matter afresh and pass appropriate orders within a period of three months

from the date of receipt of a copy of this order. Office is directed to despatch the records, if any received, immediately.

6. Accordingly, the writ petition is allowed remitting the matter to the Labour Court. No order as to costs.

C.V.RAMULU, J

04th July, 2005

SKM
That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this

Monday the Fourth day of July Two thousand and Five.

REGISTRAR

Copy to:

1 The Chairman, Industrial Tribunal-II Chandravihar,
Hyderabad.
2 Two C.Cs. to the G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

3 Two C.D. Copies.